1. I ponder that the rail spur is an easement. First, the clause runs with the land for, which makes it appurtenant. Maintaining the rail spur is affirmative, because the spur serves as a right of access to the railroad. Negative appurtenant tend to be deemed covenants, and this is not. If *Othen* had an express grant, the layout of the cases hold similarities.

   Because there is (1) a writing that (2) identifies the parties involved (all businesses operating in the Western Tract) that (3) shows intent to convey an easement ("[W]arrant… to construct and maintain a rail spur… [so that] all businesses… will have direct rail access"), this is an express easement by grant.

   Even though there is road access to the stores, access to the railroad provides a completely independent mode of transport. In an age of spurious supply squeezes, a secondary method to ship and receive goods is gold. Without consent terminating the easement would be difficult since easements can go on forever. The fact that the three parcels used to be one, split apart by Axoth, makes Axoth a developer and the easement part of her "vision," which makes it extra strong.

2. Yes there is an easement, and my client Doral made good faith effort and had all intentions of constructing a railroad spur with the utmost expediency, but the situation played out as it did and now the cost of building the spur poses undue hardship on my client while a forced sale is an extreme remedy at any price.

   The easement grants the right to access the railroad for all stores in the Tract. The developer authored the clause, yet didn't articulate a deadline for completion nor take on the task of spur-building herself. Therefore, *when* the spurs are constructed is open to interpretation under the grant, technically. Continued ownership of the parcel was unexpected following the sale of her company. Doral's efforts are of good faith; the circumstances unplanned.

   Looking to *Brown* for it too faced the question of injunctive relief as a proposed remedy. If Doral's violating the easement, the court should look for a remedy with equity in mind. Bandler's arguments for damages are weak—there's no change to our servient property, he's never sent a shipment, the spur will be built eventually after Doral sells, and his business is new. No damage, no injunctive relief.

3. Doral Jr. would be liable under a theory of nuisance if the nuisance was substantial, nontrespassory, interferes with the rightful owner's use and enjoyment, intentional, and unreasonable. Whether the bar for substantial is low or high, the nuisance factor of Parcel 2 meets it. The buildings and grounds scream decay, and have been for decades. Because of the parcel's unruliness, the neighbors' yards constantly battle weeds, backyards aren't safe due to coyotes, and it's always dusty, among other problems. They can't use and enjoy their property.

   While Doral Jr. may claim she wasn't aware of the state of the property, this can only be true for so long. One only need to look at the property for a few seconds to comprehend the cornucopia of hazard Parcel 2 presents. Without action, Doral Jr. could be substantially certain that the property wasn't going to improve all on its own. Therefore, the intentional element is satisfied.

The other factors are satisfied. The issues are non-trespassory. Looking to *High Penn Oil* reasonability test. There, conduct is unreasonable if it is negligent, reckless or ultrahazardous. A roof caving in satisfies the test. Property should be efficient, and this is the opposite.

4. We look to Boomer for remedy because that case also involved dusty nuisance and a question of injunctive relief. Unlike in Boomer, where a cement plant still serves some utility in creating a product, a property left to waste does not. Such a thing goes offends the basic principles of Property Law, and will forever fail the utility balancing test doomed to always be labeled unreasonable.

   For the remedy an injunction is appropriate due to the substantial continuing damage coupled with the lack of justified utility. As for damages, some are temporary---invasive weeds can be tamed, coyote refuges blocked, dust can settle. Others are permanent or yet to be made known. As this case stands, I don't see a need for permanent damages, and punitive damages are unavailable for nuisance. The residents may argue that permanent damage *has* been done from the nuisance of Parcel 2, and maybe so, but Doral Jr. only came into this property recently and shouldn't be held liable to permanent harm caused by anyone other than his own actions.

I issue an injunctive order to address the intentional nuisance and have the wilderness tamed a substantial step within a month.